

BRIAN D. SHAPIRO
Trustee in Bankruptcy
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E-filed: January 28, 2014

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:

Ray Norwood

Chapter 7
Case No. 13-18292-LED

**MOTION FOR TURNOVER
AGAINST KAREN NORWOOD**

Debtor(s).

Hearing Date: March 4, 2014
Hearing Time: 2:30 p.m.

BRIAN D. SHAPIRO, Chapter 7 Trustee ("Trustee") of the Ray Norwood ("Ray")
Bankruptcy Case, hereby requests an order of this Court to order Karen Norwood to turn over
the 2004 Dodge Durango. This Motion is based upon the attached points and authorities, the
Declaration in Support and any oral argument that this Court may permit.

DATED 1-27-14.



BRIAN D. SHAPIRO, TRUSTEE

MEMORANDUM OF POINTS AND AUTHORITIES

I. Statement of Facts

1. On September 27, 2013 Debtor Ray Norwood ("Debtor") filed a Chapter 7 Bankruptcy Proceeding. See generally, Declaration of Brian D. Shapiro in Support.
2. Brian D. Shapiro was appointed to serve as the Chapter 7 Trustee. Id.
3. The §341 meeting of creditors was concluded on October 28, 2013. Id.
4. Debtor disclosed ownership interest in a 2004 Dodge Durango with a value of \$9,000.00, and a 2004 Ford F-250 with a value of \$11,000.00. Id. A copy of the Debtor's Schedule B is attached to the Declaration of Brian D. Shapiro in Support as EXHIBIT 1.
5. Debtor exempted \$4,000.00 of the Dodge Durango pursuant to Nev. Rev. Stat. §21.090(1)(f), and exempted \$11,000.00 of the 2004 Ford F-250 pursuant to Nev. Rev. Stat. §21.090(1)(f). Id. A copy of the Debtor's Schedule C is attached to the Declaration of Brian D. Shapiro in Support as EXHIBIT 2.
6. At the §341 meeting of creditors, Debtor testified under oath that he has been married for ten and one-half years to Karen Norwood, and separated for three months. Debtor further testified that between him, and his spouse, they own two vehicles free and clear, a 2004 Dodge Durango, and a 2004 Ford F-250. The Dodge Durango is driven by the non-debtor spouse, and the 2004 Ford F-250 is driven by the Debtor. Id.
7. The Trustee has reviewed the Family Court records, and the Complaint for Divorce was filed on August 13, 2013 but no order for divorce has been obtained

prior to the filing of the bankruptcy case. A copy of the Court docket is attached to the Declaration of Brian D. Shapiro as Exhibit 3.

8. On November 12, 2013, the Trustee filed a motion for turnover of the 2004 Dodge Durango. See, Docket No. 15.

9. On January 7, 2014, this Court entered an order requiring the Debtor to turn over the 2004 Dodge Durango. A copy of the order is attached to the Declaration of Brian D. Shapiro as Exhibit 4.

10. On January 23, 2014, this Court entered an order denying the Debtor's request to convert the case to a Chapter 13. A copy of the order is attached to the Declaration of Brian D. Shapiro as Exhibit 5.

11. On December 19, 2013, Karen Norwood filed bankruptcy. Copies of her schedules are attached to the Declaration of Brian D. Shapiro as Exhibit 6. Pursuant to the schedules, she is in possession of the 2004 Dodge Durango.

12. Demand has been made for turnover of the 2004 Dodge Durango but Karen Norwood, by and through her counsel, has refused to turn over the vehicle. A copy of her correspondence is attached to the Declaration of Brian D. Shapiro as Exhibit 7.

II. Legal Argument

11 USC 541(a)(2) defines property of the Bankruptcy Estate "to include in part all interests of the debtor and the debtor's spouse in community property as of the commencement of the case..." For purposes of this section, all community property not yet divided by a state court at the time of the bankruptcy filing is property of the bankruptcy estate. See, In re Miller, 167 B.R. 202 (Bankr. C.D. Cal. 1994).

1 In this case, the 2004 Dodge Durango is property of this Bankruptcy Estate and is not
2 property of Karen Norwood nor her bankruptcy estate. 11 USC 542(a) requires an entity, other
3 than a custodian to turn over the property to the Bankruptcy Estate. See generally, Shapiro v.
4 Henson, 2014 U.S.App. Lexis 440, 2014 WL 68998 (9th Cir. 2014).

5 Accordingly, the 2004 Dodge Durango which is in possession of Karen Norwood should
6 be turned over to the Bankruptcy Estate.
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8 **III. Conclusion**

9 The Trustee respectfully requests, based upon the above referenced statutory law, that
10 the Court order Karen Norwood to immediately turnover the 2004 Dodge Durango to the
11 Bankruptcy Estate.
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14 DATED 1-27-14

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